



CALIFORNIA  
ASSOCIATION  
OF REALTORS®

## Sales Disclosure Chart

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July 28, 2011 (revised)

REALTORS® know very well the importance, and the complexity, of the various state and federal disclosure laws governing real estate transactions in California. This Sales Disclosure Chart is designed to provide REALTORS® and their clients with an easy-to-use reference guide for determining the applicability of these laws to the sales transactions most commonly handled by real estate licensees.

Be sure to check the detailed disclosure information in the Summary Disclosure Chart since there may be exceptions or special exemptions to a disclosure requirement.

The Sales Disclosure Chart addresses the general applicability of common disclosure requirements in particular types of transactions, but does not cover all disclosures required by law such as additional local requirements.

Finally, certain transactions, including new home, subdivision, and common interest development sales, are subject to separate disclosure requirements.

Disclosure	Residential Real Property 1-4 Units			Res. 5+ Units	Vacant Land / Comm'l & Industrial	Personal Property Mobile-homes	C.A.R. Form <sup>14</sup> / Publication	Law Citation
		Probate / Trust / Bankruptcy	Foreclosure / REO					
<b>Advisability of Title Insurance</b>  (When No Insurance Issued)	Yes*	Yes*	Yes*	Yes*	Yes*	No		Cal. Civ. Code §1057.6.  *Typically handled by escrow agent
<b>Agency Disclosure</b> (education form) and <b>Agency Confirmation</b> (who represents each party)	Yes	Yes	Yes	No	No	Yes	Disclosure Form: AD  Confirmation Form: "Agency" section of C.A.R. purchase agreements or AC-6	Cal. Civ. Code §§ 2079.13 <i>et seq.</i>
<b>Airport in Vicinity<sup>1</sup></b>	Yes	No	No	No	No	Yes	NHD expert's report	Cal. Civ. Code §1103.4.

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<b>Area of Potential Flooding<sup>1</sup></b>	Yes	Yes	Yes	Yes	Yes	Yes	NHD (if form required)	Cal. Gov't. Code §§ 8589.4, 8589.5; Cal. Civ. Code §§ 1103 <i>et seq.</i>
<b>Broker's Statutory Duty to Inspect Property</b>	Yes*	Yes*	Yes*	No	No	Yes	TDS (for real property)  MHTDS (for personal property manufactured or mobile homes)  AVID may be used (if TDS and MHTDS not required)	Cal. Civ. Code §§ 2079 <i>et seq.</i>  *See Summary Disclosure Chart for Exemptions
<b>Carbon Monoxide Detector Disclosure</b>	Yes	No	No	No	No	Yes	TDS (for real property)  MHTDS (for personal property manufactured or mobile homes)	Cal. Civ. Code §§ 1102.6, 1102.6d.  Note: Installation is not a precondition of sale or transfer of the dwelling.
<b>Carbon Monoxide Detector Compliance</b>	Yes*	Yes*	Yes*	Yes*	No	Yes*	No compliance certification is required	Cal. Health & Safety Code § 17926.  * existing single-family home on or before <b>July 1, 2011</b> , all other existing dwelling units on or before <b>Jan. 1, 2013</b>  See Summary Disclosure Chart for additional details.
<b>Commercial Property Owner's Guide to Earthquake Safety (Booklet)</b>	Yes <sup>2</sup>	No	No	Yes*	No/Yes*	No	<i>The Commercial Property Owner's Guide to Earthquake Safety</i>	Cal. Bus. & Prof. Code §10147; Cal. Gov't Code §§ 8875.6, 8875.9, 8893.2, 8893.3; Cal. Civ. Code § 2079.9.  *See Summary Disclosure Chart for exemptions.

Disclosure	Residential Real Property 1-4 Units			Res. 5+ Units	Vacant Land / Comm'l & Industrial	Personal Property Mobile-homes	C.A.R. Form <sup>14</sup> / Publication	Law Citation
		Probate / Trust / Bankruptcy	Foreclosure / REO					
<b>Death (in last 3 years)</b>	Yes*	Yes*	Yes*	Yes*	Yes*	No**	TDS (if required) SSD or SPQ may be used (if TDS not required)	Cal. Civ. Code §1710.2  *if deemed a "material fact"  **Statute applies only to real property but may be required under "material fact" analysis.
<b>Earthquake Fault Zone<sup>1</sup></b>	Yes	Yes	Yes	Yes	Yes	Yes	NHD (if form required)	Cal. Pub. Res. Code §§ 2621 <i>et seq.</i> ; Cal. Civ. Code §§ 1103 <i>et seq.</i>
<b>Farm or Ranch Proximity<sup>1</sup></b>	Yes	No	No	No	No	Yes	NHD expert's report	Cal. Civ. Code § 1103.4.
<b>FHA/HUD Inspection Notice</b>	Yes*	Yes*	Yes*	No	No	No	HID	HUD Mortgagee Letter 06-24  *Required only for FHA loans or HUD-owned property.
<b>FIRPTA (Federal Tax Withholding) and California Tax Withholding</b>	Yes*	Yes*	Yes*	Yes*	Yes*	No	AS may be used (applies to both federal and California Tax Withholding)  AB may be used (applies only to federal withholding)	Cal. Rev. & Tax Code §§ 18662, 18668; 26 U.S.C. §1445.  *If seller eligible, AS or other form required to avoid withholding by escrow.
<b>Flood Disaster Insurance Requirements</b>	Yes	Yes	Yes	Yes	Yes <sup>5</sup>	Yes		42 U.S.C. § 5154a.
<b>Home Energy Rating System (HERS) Booklet</b>  (Optional Disclosure <sup>4</sup> – Booklet Now Available)	No	No	No	No	No	No	<i>Home Energy Rating System (HERS) Booklet (part of Combined Hazards Booklet)</i>	Cal. Civ. Code § 2079.10; Cal. Pub. Res. Code §§ 25402.9, 25942.
<b>Homeowner's Guide to Earthquake Safety</b>	Yes*	No	No	No	No	No <sup>6</sup>	<i>The Homeowner's Guide to Earthquake Safety (part of</i>	Cal. Bus. & Prof. Code § 10149; Cal. Gov't Code §§ 8897.1, 8897.5; Cal. Civ. Code § 2079.8.

Disclosure	Residential Real Property 1-4 Units			Res. 5+ Units	Vacant Land / Comm'l & Industrial	Personal Property Mobile-homes	C.A.R. Form <sup>14</sup> / Publication	Law Citation
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(Booklet and Form)							<i>Combined Hazards Booklet</i>  "Residential Earthquake Hazards Report" Form in Booklet	*See Summary Disclosure Chart for Exemptions.
<b>Industrial Use Zone Location</b>	Yes	No <sup>3</sup>	No	No	No	No	SSD or SPQ may be used	Cal. Civ. Code § 1102.17; Cal. Code of Civ. Proc. § 731a
<b>Lead-Based Paint Pamphlet and Form</b>	Yes*	Yes*	No/Yes*	Yes*	No	Yes (Probably) <sup>7</sup>	Pamphlet: <i>Protect Your Family From Lead In Your Home</i> (also in <i>Combined Hazards Booklet</i> )  Form: FLD	42 U.S.C. § 4852d; 40 CFR Part 745.  *Applies only to residential property built before 1978.  See the Summary Disclosure Chart for exemptions.
<b>Material Facts<sup>8</sup></b>	Yes	Yes	Yes	Yes	Yes	Yes	TDS or MHTDS (if required)  SSD or SPQ may be used	Case law; Cal. Civ. Code §§ 2079 <i>et seq.</i>
<b>Megan's Law Disclosure</b> (Registered Sex Offender Database)	Yes	Yes	Yes	No	No	No	"Database Disclosure" section of C.A.R. contracts  REO and REOL may be used for REO transactions	Cal. Civ. Code § 2079.10a
<b>Mello-Roos, 1915 Bond Act Assessments<sup>9</sup>, and voluntary contractual assessment.</b>	Yes	No <sup>3</sup>	No	No	No	No		Cal. Civ. Code § 1102.6b; Cal. Gov't Code §§ 53340.2, 53754, Cal. Str. & H. Code § 5898.24.

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<b>Meth Lab Clean-Up Order</b>  (Only if Received Release of Illegal Controlled Substance Remediation Order)	Yes	Yes	Yes	Yes	Yes	Yes*	TDS (if required) (question II.C.1)  SSD or SPQ or MCN may be used (if TDS not required)	Cal. Health & Safety Code § 25400.28 (disclosure); §25400.36(q) and (r) (definitions).  *Exempt if located in a mobilehome park or manufactured home park.
<b>Military Ordnance Location</b>	Yes	No <sup>3</sup>	No	No	No	No	SSD or SPQ may be used	Cal. Civ. Code § 1102.15.
<b>Mining Operations</b>	Yes	No	No	No	No	Yes	NHD expert's report	Cal. Civ. Code § 1103.4. Effective date of law is Jan. 1, 2012
<b>Mold (Disclosure of Excessive Mold or Health Threat)<sup>10</sup></b>	No	No	No	No	No/No	No		Cal. Health & Safety Code §§ 26140, 26141, 26147.  CDHS has not yet established limits.
<b>Natural Hazard Disclosure Statement (the form)</b>	Yes	No	No	No	No	Yes	NHD (statutory form)	Cal. Civ. Code §§ 1103 et seq.
<b>Pest Control Inspection Report and Certification</b>  (wood destroying pests or organisms)	Yes*	Yes*	Yes*	Yes*	No/Yes*	No		Cal. Civ. Code § 1099.  *Seller or Seller's agent must deliver inspection report and subsequent certification (of work completed) to Buyer <u>only if</u> required by contract or the Buyer's lender.
<b>Private Transfer Fee</b>	Yes	No <sup>3</sup>	No	No	No	No	NTF may be used	Cal. Civ. Code § 1102.6e.
<b>Residential Environmental Hazards Booklet</b>  (Optional Disclosure <sup>11</sup> )	No	No	No	No	No	No	<i>Residential Environmental Hazards: A Guide for Homeowners, Buyers, Landlords and Tenants (also in Combined Hazards Booklet)</i>	Cal. Civ. Code § 2079.7.
<b>Seismic</b>	Yes	Yes	Yes	Yes	Yes	Yes	NHD (if form)	Cal. Pub. Res. Code § 2694;

Disclosure	Residential Real Property 1-4 Units			Res. 5+ Units	Vacant Land / Comm'l & Industrial	Personal Property Mobile-homes	C.A.R. Form <sup>14</sup> / Publication	Law Citation
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<b>Hazard Zone<sup>1</sup></b>							required)	Cal. Civ. Code §§ 1103 <i>et seq.</i>
<b>Smoke Detectors Must Be In Compliance</b>	Yes	Yes*	Yes*/Yes	Yes	No/No**	Yes		Cal. Health & Safety Code §§ 13113.7, 13113.8, 18029.6  *Single-family homes and factory-built housing are exempt  **Yes, if there is a "dwelling unit" on the commercial or industrial property
<b>Smoke Detector Written Statement of Compliance</b>	Yes*	No	No/Yes*	No	No	Yes***	TDS (now contains statement of compliance)  WHDS may be used for real property when no TDS  ***HCD Declaration for mobilehomes and manufactured homes (MHTDS also contains statement of compliance)	Cal. Health & Safety Code §§ 13113.8, 18029.6; 25 Cal. Code Regs. § 5545.  *Required for single-family homes and factory-built real property housing only
<b>Special Flood Hazard Area<sup>1</sup></b>	Yes	Yes	Yes	Yes	Yes	Yes	NHD (if form required)	Cal. Gov't Code § 8589.3; Cal. Civ. Code §§ 1103 <i>et seq.</i>
<b>State Responsibility Area (Fire Hazard Area)<sup>1</sup></b>	Yes	Yes	Yes	Yes	Yes	Yes	NHD (if form required)	Cal. Pub. Res. Code §§ 4125, 4136; Cal. Civ. Code §§ 1103 <i>et seq.</i>
<b>Supplemental Property Tax Notice</b>	Yes	No <sup>3</sup>	No	No	No	No	SPT (or SBSA may be used)	Cal. Civ. Code §1102.6c
<b>Transfer Disclosure Statement</b>	Yes	No <sup>3</sup>	No	No	No	Yes*	TDS (for real property)  MHTDS (for personal property manufactured	Cal. Civ. Code §§ 1102 <i>et seq.</i>  *Probate, Bankruptcy, REO, and Trusts exempt

Disclosure	Residential Real Property 1-4 Units			Res. 5+ Units	Vacant Land / Comm'l & Industrial	Personal Property Mobile-homes	C.A.R. Form <sup>14</sup> / Publication	Law Citation
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							or mobile homes)	
<b>Very High Fire Hazard Severity Zone<sup>1</sup></b>	Yes	Yes	Yes	Yes	Yes	Yes	NHD (if form required)	Cal. Gov't. Code § 51183.5; Cal. Civ. Code §§ 1103 <i>et seq.</i>
<b>Water Conserving Fixtures Compliance (SB 407)</b>	Yes*	Yes*	Yes*	Yes*	No/Yes*	No		<p>Cal. Civ. Code §§ 1101.4(b), 1101.5(a) (d).</p> <p>*Applies only to real property built on or before 1-1-1994;</p> <p>Effective date of law for single-family residential real property is <b>Jan. 1, 2017</b>;</p> <p>Effective date for two or more unit resid. real prop. and commercial real prop. is <b>Jan. 1, 2014 (some prop.) and Jan. 1, 2019 (all prop.)</b>.</p> <p>See the Summary Disclosure Chart for exemptions.</p>
<b>Water Conserving Fixtures Disclosure (SB 407)</b>	Yes*	Yes*	Yes*	Yes*	No/Yes*	No		<p>Cal. Civ. Code §§ 1101.4(c), 1101.5(e), 1102.155.</p> <p>*Applies only to real property built on or before Jan. 1, 1994;</p> <p>Effective date of law for single-family residential real property is <b>Jan. 1, 2017</b>;</p> <p>Effective date for two or more unit resid. real prop. and commercial real prop. is <b>Jan. 1, 2019</b>.</p> <p>See the Summary Disclosure Chart for exemptions.</p>
<b>Water Heater Bracing Requirement</b>	Yes	Yes	Yes	Yes	No/ Maybe <sup>12</sup>	Yes <sup>13</sup>		Cal. Health & Safety Code §§ 19211, 18031.7.

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	Yes	Probate / Trust / Bankruptcy	Foreclosure / REO					
<b>Water Heater Bracing Statement of Compliance</b>	Yes	Yes	Yes	Yes	No/ Maybe <sup>12</sup>	Yes***	TDS (now contains statement of compliance)  WHSD may be used for real property if no TDS  *** <a href="#">HCD Declaration</a> for mobilehomes and manufactured homes	Cal. Health & Safety Code §§ 19211, 18031.7; 25 Cal. Code Regs. § 4102.

## **ENDNOTES**

1. This information is typically included in disclosure reports obtainable from third-party disclosure reporting companies. In transactions requiring a Natural Hazard Disclosure Statement (NHD), this information must be disclosed on the NHD form (which also may be prepared by a third-party company on behalf of a seller or real estate agent). Note that the "Airport in Vicinity", "Farm and Ranch Proximity" and "Notice of Mining Operations" disclosures are required to be included, when applicable, on NHD reports by experts. The statute doesn't otherwise make this a disclosure requirement. (Cal. Civ. Code § 1103.4.)
2. This disclosure requirement applies to transfers of precast concrete or reinforced/unreinforced masonry buildings with wood-frame floors or roofs. Though this requirement is most relevant to commercial properties, the law does not specifically exempt masonry buildings used for residential purposes.
3. Transfers by fiduciaries (e.g., trustees) administering trusts generally are exempt from this disclosure requirement. However, if the trustee is a natural person who is the sole trustee of a revocable trust and he or she is a former owner of the property or an occupant in possession of the property within the preceding year, then compliance *is* required.
4. The delivery of this booklet is not mandatory (unless required by contract), but provides important legal protections to a seller or real estate agent who elects to provide the booklet.
5. This disclosure requirement applies to transferors of "personal, commercial, or residential property" for which flood-related disaster assistance has been provided. Vacant land is not specifically addressed by this law. As a practical matter, however, a seller generally can determine, at the time federal disaster assistance is received, whether flood insurance is required by federal agencies for the property in question.
6. California law requires delivery of *The Homeowner's Guide to Earthquake Safety* in connection with transfers of real property. However, it may be prudent to provide this booklet to purchasers of personal property manufactured or mobile homes.

7. Federal law does not specifically require these disclosures in sales of personal property mobilehomes. However, federal regulators have taken the position that mobilehomes built before 1978 are covered by this law.

8. A seller or real estate agent involved in the transfer of real property or a mobilehome may be liable for failing to disclose material facts affecting the value or desirability of the property. Whether a particular fact is "material" depends on a variety of factors. A seller or real estate agent who is unsure as to the materiality of a particular fact should consult an attorney. Alternatively, many sellers and real estate agents resolve such doubts in favor of disclosure to minimize exposure to liability. While the disclosure of certain material facts sometimes must be made in a particular format (e.g., the Transfer Disclosure Statement, or the Manufactured Home or Mobilehome Transfer Disclosure Statement), the law generally does not regulate how material facts must be disclosed (though *written* disclosure is almost always recommended).

9. This information, as it pertains to Mello-Roos Community Facilities Districts, generally applies to resale transactions. Subdividers and their agents may have to comply with separate Mello-Roos district disclosure obligations under California Government Code § 53341.5.

10. California's Toxic Mold Protection Act requires that in residential and commercial/industrial lease transactions, and in commercial/industrial sales transactions, landlords/sellers disclose to tenants/buyers mold that either exceeds permissible limits set by California's Department of Health Services (CDHS) or poses a health threat. This disclosure need not be made until the CDHS establishes permissible mold exposure limits. The CDHS has not yet taken this action, and the Act does not specifically require any alternative disclosure in the interim.

11. The delivery of this booklet is not mandatory (unless required by contract), but provides important legal protections to a seller or real estate agent who elects to provide the booklet. This booklet is often combined with *The Homeowner's Guide to Earthquake Safety* and the lead hazard disclosure pamphlet *Protect Your Family From Lead In Your Home* (which are mandatory in certain transactions).

12. California law requires the seller of any real property to certify that new and replacement water heaters have been braced, anchored, or strapped to resist movement during an earthquake. Though these statutory requirements are most relevant to water heaters located in residential properties, they do not specifically exempt commercial or industrial properties.

13. California law requires all new and replacement water heaters, and all existing residential water heaters, to be braced, anchored, or strapped to resist movement during an earthquake including those in mobilehomes and manufactured homes.

14. California law sometimes requires that a specific form (or exact language) be used. Examples are the AD, FLD, TDS, MHTDS, and the NHD. Other times, the law requires a disclosure but doesn't mandate that particular language be used. However, C.A.R. provides forms for that purpose--indicated in this chart by the words "may be used." The law doesn't require the use of these forms. Examples are the AVID, MCN, NTF, SBSA, SSD, SPQ, AS, AB, WHSD, REO, and REOL.

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Revised by Sonia M. Younglove, Esq.

The information contained herein is believed accurate as of July 28, 2011. It is intended to provide general answers to general questions and is not intended as a substitute for individual legal advice. Advice in specific situations may differ depending upon a wide variety of factors. Therefore, readers with specific legal questions should seek the advice of an attorney.